

REMARKS

Claims 1-25 and 27-30 are pending in the Application and stand rejected. Claims 1 and 23 are amended with this reply. Upon entry of the Amendments, claims 1-25 and 27-30 remain pending.

Support for the Amendments is found in the specification as originally filed, for example, at paragraphs 37 and 38 on pages 9 and 10. Applicants respectfully request entry of the Amendments.

REJECTION UNDER 35 U.S.C. § 102/103

Claims 1-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or in the alternative as obvious over the McBain reference (U.S. Patent No. 5,777,053). Applicants respectfully traverse the rejection as applied to the amended claims and request reconsideration.

Product-by-process claims recite compositions by referring to the steps carried out to prepare them. It is well established that a product-by-process claim is anticipated by disclosures in the prior art that disclose compositions having the claimed structure, even if made by a different process. Because of this, the structure implied by process steps must be considered when assessing the patentability of product-by-process claims over the prior art. *In re Garnero*; see also MPEP § 2113.

Applicants respectfully maintain that the structure of the gel coat resin recited in claim 1 is different from that disclosed in the McBain reference. The reasons for these differences in structure have been discussed by Applicants in previous responses and are incorporated herein. The latest Office Action appears to take the position that the structures would be the same unless carried out at an NCO/OH ratio of 10:1 or greater.

Applicants respectfully disagree. The point is well taken in so far as it illustrates that the structure of polymeric materials depends on the process by which they are made. However, even if it is true that the prepolymer method does not yield a “homogenous product” until the excess of diisocyanate over hydroxyl is very great, it still doesn’t mean that the structure implied by the recited process steps is the same as that disclosed in the reference. Applicants have demonstrated the difference in structure beyond question in their earlier replies.

Amended claim 1 recites the further limitation that the gel coat compositions comprise from 5 to 20% by weight of a combination of difunctional and trifunctional acrylic esters. Such a combination of difunctional and trifunctional diluents is shown in the Examples to lead to useful gel coat compositions. The McBain reference does not disclose or suggest the use of a combination of difunctional and trifunctional diluents. Applicants respectfully submit the Amendment further distinguishes the claimed subject matter from the disclosure of the McBain reference.

For the reasons discussed above, Applicants respectfully request that the rejection, as applied to the amended claims, be withdrawn.

REJECTION UNDER 35 U.S.C. § 103

Claims 23, 24, and 26-30 stand rejected under 35 U.S.C. § 103(a) as being obvious over the McBain reference (U.S. Pat. No. 5,777,053) in view of the Bristowe reference (U.S. Patent No. 4,213,837), the Craven reference (USP 4,346,144), the Sadvary reference (U.S. Patent 6,225,434), and the Boisseau reference (U.S. Patent No. 6,391,390). Applicants respectfully traverse the rejections as applied to the amended claims and request reconsideration.

Applicants have amended claim 23 to recite the limitation that the gel coat compositions further comprise 5 to 20% by weight of a combination of difunctional and trifunctional diluents. Such a limitation is not disclosed or suggested by a combination of the references. Accordingly, Applicants respectfully request that the rejection, as applied to the amended claims, be withdrawn.

CONCLUSION

For the reasons discussed above, Applicants believe that claims 1-25 and 27-30 as amended are in a state of allowability and respectfully request an early notice of allowance. The Examiner is invited to telephone the undersigned, if that would be helpful in resolving any issue.

Respectfully submitted,

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By: Mark A. Frentrup
Anna M. Budde
Reg. No. 35,085
Mark A. Frentrup
Reg. No. 41,026
Attorneys for Applicant

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

CORRESPONDENCE ADDRESS:
Kathryn A. Marra
General Motors Corporation
Legal Staff - Mail Code 482-C23-B21
PO Box 300 - 300 Renaissance Center
Detroit, Michigan 48265-3000
Ph: 313-665-4708
Fax: 313-665-4976

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